

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

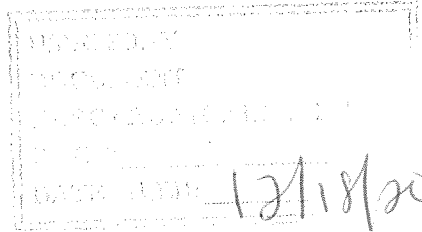
HEALTH & WELFARE FUND OF THE UNITED FOOD
& COMMERCIAL WORKERS LOCAL 2013, AFL-CIO
BY ITS TRUSTEES LOUIS MARK CAROTENUTO and
STANLEY FLEISHMAN,

Plaintiffs,

-against-

MILMAR FOOD GROUP, LLC,

Defendant.



**STIPULATION OF
SETTLEMENT AND
ORDER OF
DISCONTINUANCE**

20-CIV-7847 (VB)

This Stipulation of Settlement is made by and between the parties hereto, Plaintiff HEALTH & WELFARE FUND OF THE UNITED FOOD & COMMERCIAL WORKERS LOCAL 2013, AFL-CIO ("LOCAL 2013 HEALTH & WELFARE FUND") and Defendant MILMAR FOOD GROUP, LLC ("MILMAR").

WHEREAS, Defendant MILMAR acknowledges and agrees that contributions owed for the month of November 2020 are currently due in the amount of \$40,915.65; and

WHEREAS, Defendant MILMAR acknowledges and agrees that it is deficient in the payment of fringe benefit contributions to Plaintiffs LOCAL 2013 TRUST FUNDS for the period of September 1, 2020 through October 31, 2020 in the amount of \$87,457.00; and

WHEREAS, the parties are desirous of resolving in this Stipulation of Settlement and Order of Discontinuance all disputes between them.

NOW THEREFORE, in consideration of the mutual promises set forth herein, and other good and valuable consideration, the parties hereto mutually agree as follows:

1. Defendant MILMAR acknowledges and agrees to remit payment of all contributions owed for the month of November 2020 no later than December 8, 2020 directly to Plaintiffs LOCAL 2013 HEALTH & WELFARE FUND.

2. Defendant MILMAR further acknowledges and agrees to pay the amount owed in contributions totaling \$87,457.00 for the months of September & October 2020, together with interest thereon totaling \$1,526.50, for a grand total of \$88,983.50, through eight (8) monthly installment payments commencing on December 15, 2020 as follows:

December 15, 2020	\$10,944.36
January 15, 2021	\$11,148.45
February 15, 2021	\$11,148.45
March 15, 2021	\$11,148.45
April 15, 2021	\$11,148.45
May 15, 2021	\$11,148.45
June 15, 2021	\$11,148.45
July 15, 2021	\$11,148.44

3. Each of the payments to be made pursuant to paragraph 2 of this Stipulation of Settlement, shall be in the form of a check made payable to "UFCW Local 2013 Health & Welfare Fund" and forwarded to the Plaintiffs' attorneys, Brady McGuire & Steinberg, P.C., Attn: James M. Steinberg, at 303 South Broadway, Suite 234, Tarrytown, New York 10591.

4. In exchange for the prompt and full payments identified herein, Plaintiffs LOCAL 2013 TRUST FUNDS waive any claims for liquidated damages, costs and attorneys' fees otherwise available under the Employee Retirement Income Security Act of 1974. Notwithstanding the above, in the event

that Defendant MILMAR fails to make any payment as required by paragraphs 1 and 2 of this Stipulation of Settlement or rectify any default in accordance with Paragraph 5 of this Stipulation, Defendant MILMAR acknowledges that Plaintiff LOCAL 2013 HEALTH & WELFARE FUND has the right to enter judgment in the amount as detailed in Paragraph 5 hereafter.

5. In the event of any default by Defendant MILMAR in the payments due under the provisions of this Stipulation, and provided that said default continues for a period of five (5) days after notice to cure is sent to the Defendant MILMAR *via* email to Martin Hoffman and Debi Manfredonia at martinh@milmarfood.com and debim@milmarfood.com, and *via* email to Glenn J. Franklin, Esq. at gfranklin@franklingringer.com, the Clerk of the United States District Court for the Southern District of New York is hereby authorized to enter judgment upon the application of Plaintiff LOCAL 2013 HEALTH & WELFARE FUND against Defendant MILMAR in the amount of \$128,372.65 less payments received through the date of default, along with liquidated damages equal to 20.0% of the originally scheduled amount owed of \$128,372.65, attorneys' fees in the amount of \$3,000.00 and litigation costs in the amount of \$490.00.

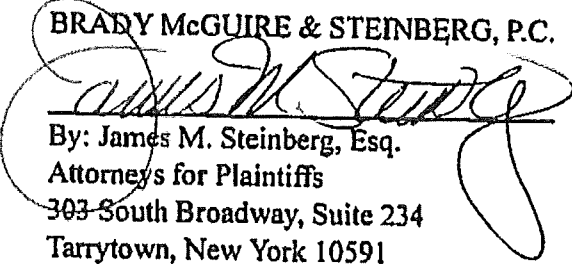
6. The parties agree that this Stipulation of Settlement may be executed in any number of counterparts and when taken together shall be one complete document.

IT IS HEREBY FURTHER STIPULATED AND AGREED, by and between the undersigned, including the attorneys of record for Plaintiffs and Defendant that whereas no party hereto is an infant or incompetent person for whom a committee has been appointed and no person not a party has an interest in the subject matter of this action, the above-captioned action shall be discontinued, without costs to either party as against the other, subject to reopening in the event of default or failure of any payment,

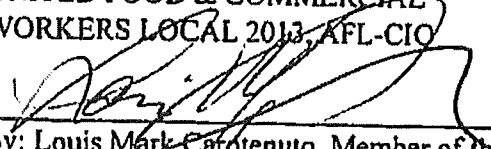
term or condition agreed to, required or contained in this Stipulation of Settlement and Order of Discontinuance.

Dated: Tarrytown, New York
December 15, 2020

BRADY MCGUIRE & STEINBERG, P.C.


By: James M. Steinberg, Esq.
Attorneys for Plaintiffs
303 South Broadway, Suite 234
Tarrytown, New York 10591
(914) 478-4293
james@bradymcguiresteinberg.com

HEALTH & WELFARE FUND OF THE
UNITED FOOD & COMMERCIAL
WORKERS LOCAL 2013, AFL-CIO


By: Louis Mark Carotenuto, Member of the
Board of Trustees

FRANKLIN, GRINGER & COHEN, P.C.

By: Glenn J. Franklin, Esq.
Attorneys for Defendant
666 Old Country Road, Suite 202
Garden City, New York 11530
(516) 228-3131
gfranklin@franklingringer.com

MILMAR FOOD GROUP, LLC

By: Martin Hoffman, President

SO ORDERED:


The Honorable Vincent L. Briccetti
United States District Judge

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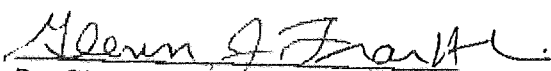
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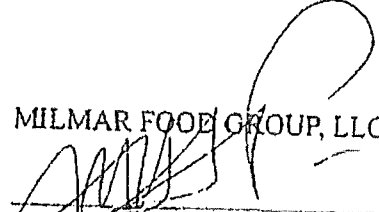
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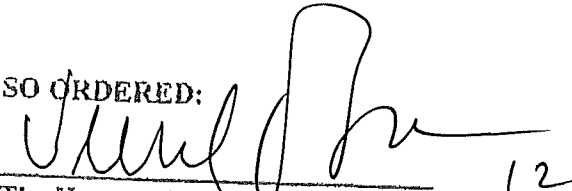
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By: Martin Hoffman, President

SO ORDERED:


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United States District Judge

12/18/20